

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: TEMPERATURE TRIGGER FOR COLD WEATHER PROTECTIONS [199 IAC 19.4(15), 20.4(15)]	DOCKET NO. RMU-03-10
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ORDER COMMENCING RULE MAKING

(Issued August 6, 2003)

On July 8, 2003, the Iowa Community Action Association (ICAA) filed a petition pursuant to Iowa Code §§ 17A.7(1) and 17A.7(2) requesting the Utilities Board (Board) amend subrules 199 IAC 19.4(15) and 20.4(15). This proceeding has been identified as Docket No. RMU-03-10. Specifically, ICAA requests the Board amend the language in subparagraphs 19.4(15)"h"(5) and 20.4(15)"h"(6) that establishes the temperature below which a utility cannot disconnect a customer. ICAA proposes to amend the two subparagraphs by replacing the 20 degrees Fahrenheit temperature below which a customer cannot be disconnected with a 32 degrees Fahrenheit temperature. ICAA also proposes to amend the subparagraphs to require that before disconnection can take place, the forecast must include a temperature at least 32 degrees, lasting at least 24 hours.

ICAA states that the intent of Iowa Code § 476.20, which establishes the winter moratorium for low-income residents, is to protect households that do not have

sufficient financial resources from the dangers of losing home heating service during the winter months. The statute, though, does not protect many low-income households and, ICAA asserts, actually excludes most low-income households from protection. Rather than proposing legislation to cover these additional low-income households, ICAA is proposing that the Board raise the temperature below which disconnection cannot take place to protect these other low-income households. ICAA suggests that this amendment would ameliorate the effects of high energy bills during the coldest days of winter.

ICAA states that the Low Income Home Energy Assistance Plan (LIHEAP) serves only approximately 45 percent of eligible persons and since this funding is limited by federal appropriations, ICAA is never sure how many eligible persons will be covered from year to year. ICAA attached a report prepared for the Iowa Department of Human Rights providing an analysis of LIHEAP customer payments during winter moratorium months. The report indicates that most LIHEAP customers continue to pay something on their heating bills during the winter moratorium even though the total amount in arrears increases.

Pursuant to the authority of Iowa Code §§ 17A.4, 17A.7, 476.1, 476.2, and 476.20 (2003), the Board will issue this "Order Commencing Rule Making" and the "Notice of Intended Action" attached hereto and incorporated herein by reference. The amendments proposed by ICAA are to 199 IAC 19.4(15)"h"(5) and 20.4(15)"h"(6). The provisions establishing the 20 degrees Fahrenheit limit for

disconnection are also found in 19.4(15)"i" and 20.4(15)"i," although the Board has proposed some changes to the language in these paragraphs in Docket No. RMU-03-3. The Board will include proposed amendments to these paragraphs in the notice since the amendments from Docket No. RMU-03-3 have not been adopted.

The "Notice of Intended Action" indicates that comments are to be filed by September 26, 2003. The Board requests that utilities provide an estimate of any additional costs to the utility and the number of customers that may be affected if the amendments are adopted. An oral presentation is scheduled for October 14, 2003, at 10 a.m. in the Board's hearing room.

On July 25, 2003, the Consumer Advocate Division of the Department of Justice filed a pleading indicating it was joining ICAA in the petition for rule making.

IT IS THEREFORE ORDERED:

1. A rule making proceeding identified as Docket No. RMU-03-10 is commenced for the purpose of receiving comments on the proposed rules in the notice attached hereto and incorporated herein by reference in this order.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to this order.
3. Comments filed by a gas or electric utility should include an estimate of any additional costs to the utility and the number of customers that may be affected if the amendments are adopted.

4. A copy of this order and the attached "Notice of Intended Action" shall be sent to all natural gas and electric utilities.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 6th day of August, 2003.

UTILITIES DIVISION [199]

Notice of Intended Action

Pursuant to Iowa Code sections 17A.4, 17A.7, 476.1, 476.2, and 476.20, the Utilities Board (Board) gives notice that on August 6, 2003, the Board issued an order in Docket No. RMU-03-10, In re: Temperature Trigger for Cold Weather Protections [199 IAC4(15), 20.4(15)], "Order Commencing Rule Making." The rule making is in response to a petition for rule making filed July 8, 2003, by the Iowa Community Action Association (ICAA) and proposes amendments to subparagraphs 199 IAC 19.4(15)"h"(5) and 20.4(15)"h"(6). The proposed amendments would change the temperature below which a utility cannot disconnect a customer's gas or electric service from 20 degrees Fahrenheit to 32 degrees Fahrenheit. ICAA's support for the proposed amendments is discussed in the Board's "Order Commencing Rule Making" issued simultaneously with this Notice. The order can be accessed on the Board's Web site at www.state.ia.us/iub.

The Board has included proposed amendments to 199 IAC 19.4(15)"i" and 20.4(15)"i" since the 20 degree Fahrenheit limitation is also found in those paragraphs. The Board, in Docket No. RMU-03-3, commenced a rule making that proposed amendments to 19.4(15) and 20.4(15) that could affect the amendments proposed in this rule making. The proposed amendments were published in IAB

Vol. XXV, No. 20 (4/2/30) pp. 1324-34, ARC 2378B. The Board has not taken final action in that rule making.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before September 26, 2003, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069. The Board requests that utilities provide an estimate of any additional costs the utility will incur and the number of customers that may be affected if the amendments are adopted.

A public hearing to receive oral comments on the proposed amendments will be held at 10 a.m. on October 14, 2003, in the Board's hearing room at the address listed above. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.20.

The following amendments are proposed.

Item 1. Amend subparagraph 19.4(15)"h"(5) as follows:

(5) Given the customer a reasonable opportunity to dispute the reason for the disconnection and, if to the extent applicable, complied with each of the following:

Disputed bill. In the event there is a dispute concerning a bill for natural gas service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

Special circumstances. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below ~~20~~ 32 degrees Fahrenheit. In any case where the utility has posted a disconnect notice in compliance with 19.4(15)"h"(4) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature

in the area where the residence is located rises to above ~~20~~ 32 degrees for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provisions of this rule.

Health of a resident. Disconnection of a residential customer shall be postponed if the discontinuance of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if one appears to be seriously impaired and may, because of mental or physical problems, be unable to manage their own resources, to carry out activities of daily living or protect oneself from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation. The utility may require written verification of the especial danger to health by a physician or public health official, including the name of the person endangered, a statement that the person is a resident of the premises in question, the name, business address, and telephone number of the certifying party, the nature of the health danger, and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days; however, the postponement may be extended by a renewal of the verification. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification

is thereafter made in accordance with the foregoing provisions. The customer must enter into a reasonable agreement for the retirement of the unpaid balance of the account within the first 30 days and keep the current account paid during the period that the unpaid balance is to be retired.

Reasonable payment agreement. If financial difficulty of a residential customer is confirmed, disconnection may not take place until after the utility has offered the customer an opportunity to enter into a reasonable payment agreement as required by 19.4(10). Disconnection shall be delayed 30 days for the making of a reasonable payment agreement and the 30 days shall be extended to 60 days if requested of the utility by the board upon receipt of a complaint that the utility has arbitrarily refused a payment agreement offered by the customer and upon a finding the customer has made payment as provided for in the offered agreement.

Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date of application to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program. In addition to the notification procedure required herein, the utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain

the information set out by the state agency administering the assistance program. A utility serving fewer than 6,000 customers may publish notice in an advertisement in a local newspaper of general circulation or shopper's guide. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing.

Abnormal gas consumption. A customer who is subject to disconnection for nonpayment of bill, and who has gas consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of gas usage, which may be readily identifiable, suggesting that an energy audit be conducted and identifying sources of energy conservation information and financial assistance which may be available to the customer.

Item 2. Amend paragraph 199 IAC 19.4(15)"i" as follows:

i Without the written 12-day notice, for failure of the customer to comply with the terms of a payment agreement, provided that:

(1) No change.

(2) The disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes a payment or other arrangements after normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or

other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at the residence, on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below ~~20~~ 32 degrees Fahrenheit. In any case where the utility has posted a disconnect notice in compliance with 19.4(15)"h"(3) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above ~~20~~ 32 degrees for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of this rule.

(3) No change.

Item 3. Amend subparagraph 20.4(15)"h"(6) as follows:

(6) Given the customer a reasonable opportunity to dispute the reason for the disconnection and, if to the extent applicable, complied with each of the following:

Disputed bill. In the event there is a dispute concerning a bill for electric utility service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the disputed bill. The 45 days shall be extended by up to 60 days if

requested of the utility by the board in the event the customer files a written complaint with the board.

Special circumstances. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence, on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below ~~20~~ 32 degrees Fahrenheit. In any case where the utility has posted a disconnect notice in compliance with 20.4(15)"h"(5) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above ~~20~~ 32 degrees for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provisions of this rule.

Health of a resident. Disconnection of a residential customer shall be postponed if the discontinuance of service would present an especial danger to the health of

any permanent resident of the premises. An especial danger to health is indicated if one appears to be seriously impaired and may, because of mental or physical problems, be unable to manage their own resources, carry out activities of daily living or protect oneself from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation. The utility may require written verification of the especial danger to health by a physician or public health official, including the name of the person endangered, a statement that the person is a resident of the premises in question, the name, business address, and telephone number of the certifying party, the nature of the health danger and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days; however, the postponement may be extended by a renewal of the verification. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. The customer must enter into a reasonable agreement for the retirement of the unpaid balance of the account within the first 30 days and keep the current account paid during the period that the unpaid balance is to be retired.

Reasonable payment agreement. If financial difficulty of a residential customer is confirmed, disconnection may not take place until after the utility has offered the customer an opportunity to enter into a reasonable payment agreement as required by 20.4(11). Disconnection shall be delayed 30 days for the making of a reasonable payment agreement and the 30 days shall be extended to 60 days if requested of the utility by the board upon receipt of a complaint that the utility has arbitrarily refused a payment agreement offered by the customer and upon a finding the customer has made payment as provided for in the offered agreement.

Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date of application to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program. In addition to the notification procedure required herein, the utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 6,000 customers may publish notice in an advertisement in a local newspaper of general circulation or shopper's guide. A utility serving fewer

than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing.

Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of electric usage which may be readily identifiable, suggesting that an energy audit be conducted and identifying sources of energy conservation information and financial assistance which may be available to the customer.

Item 4. Amend paragraph 199 IAC 20.4(15)"i" as follows:

i. Without the written 12-day notice, for failure of the customer to comply with the terms of a payment agreement, provided that:

(1) No change.

(2) The disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes a payment or other arrangements after normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day. A disconnection may not take place where electricity is used as the only source of space heating or to control or

operate the only space heating equipment at the residence, on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below ~~20~~ 32 degrees Fahrenheit. In any case where the utility has posted a disconnect notice in compliance with 20.4(15)"h"(5) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above ~~20~~ 32 degrees for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of this rule.

(3) No change.

August 6, 2003

/s/ Diane Munns

Diane Munns
Chairman